**GOVERNMENT OF ANDHRA PRADESH**
**ABSTRACT**

Tribal Welfare Department – Appeal Petition filed by Smt. Dammala Surya Kumari, W/o N. Venkateswera Rao, Malkajigiri, R.R. District, Hyderabad against the Proceedings, dated 20.04.2013 of the Collector & District Magistrate, Guntur cancelling her ST-'Yanadi' Caste Certificate, under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (A.P. Act No.16/1993) – Appeal Petition Dismissed – Orders - Issued.

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**TRIBAL WELFARE (TW.CV.2) DEPARTMENT**

**G.O.Ms.No.15,** **Dated:21.02.2023.**
**Read the following:-**

1. Proceedings of the Collector & District Magistrate, Guntur, Rc.No.271/2007/C4, dt.20.04.2013.
2. Appeal Petition filed by Smt. D. Surya Kumari W/o Venkateswara Rao, Malkajigiri, R.R. District, Hyderabad, dt.15.11.2013 & 06.01.2013.
3. Govt. Memo No.13127/CV.2/2013, dated 19.02.2014.
4. From the Collector & District Magistrate, Guntur, Lr.No.Rc.271/2007/C4, dt. .08.2014.
5. Govt. Memo No.13127/CV.2/2013, dt.24.01.2019, 13.08.2019, 28.08.2019, 12.09.2019, 09.10.2019, 10.09.2020, 16.11.2020, 07.07.2021, 09.11.2021, 02.03.2022 & 18.11.2022.
6. Written arguments filed by the appellant before the Government, dt.26.11.2022.

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**ORDER:**

In the Proceedings 1st read above, the Collector & District Magistrate, Guntur has issued orders cancelling the ST-'Yanadi' Caste Certificates of Smt. Dammala Surya Kumari, W/o Venkateswara Rao, Malkajigiri, R.R. District, Hyderabad.

2. Aggrieved by above, in the reference 2nd read above, Smt. Dammala Surya Kumari, W/o Venkateswara Rao, Malkajigiri, R.R. District, Hyderabad has filed an Appeal Petition through his Counsel before the Government against the Proceedings, dt.20.04.2013 of the Collector & District Magistrate, Guntur, duly submitting grounds in support of her claim of ST 'Yanadi' Community and prayed to stay the operation of the Proceedings of the Collector & District Magistrate, Guntur, dt.20.04.2013 and pass such other orders as deemed fit and proper in the interest of principles of Natural justice. After examining the above said Appeal Petition, Government while admitting the same, have called for the Para-wise remarks on the grounds filed by the Appellant along with connected records from the Collector & District Magistrate, Guntur District vide reference 3rd read above.

3. In reply to above, the Collector & District Magistrate, Guntur, has furnished the para-wise remarks along with connected records on the Appeal Petition filed by Smt. Dammala Surya Kumari, W/o Venkateswara Rao vide reference 4th read above.

4. The said Appeal Petition has been posted for hearing the above case before the Hon'ble Appellate Authority on various dates duly informing the same to the Appellant and the Counsel for the Appellant vide reference 5th read above. The appellant has attended the hearing on 26.11.2022 and submitted her written arguments and on perusal of the records/ the copies of evidences/ academic record/ grounds filed by the Appellant and the para-wise remarks submitted by the Collector & District Magistrate, Guntur along with his Proceedings, dt.20.04.2013, the Appellate authority has observed that;

- The present Appeal is filed under Rule 7(2) of the Act 16 of 1993 by Smt. D. Surya Kumari, W/o Venkateswara Rao, aggrieved by the proceedings issued in Rc.No.271/2007/C4, dated 20.04.2013, by the District Collector, Guntur, cancelling the ST 'Yanadi' caste certificate issued to her.

- After perusing the grounds of appeals and written submissions, parawise remarks of the District Collector and connected material evidence available on the record, and after hearing the parties, the following order is made.

**[Contd..on P.2]**

- The Contention of the Appellant is that she is working as chief pharmacist in the Railway Hospital Chilakalaguda of South Central Railway of Secunderabad division, and she was appointed in the year 1991 and her service was confirmed in the year 1993., and that her father D. Chandrashekar Rao was the resident of Gopala Krishna, Yanadhi Colony of Guntur District, and they belong to ST-"YANADHI" and his father belongs to ST-"YANADI" and her mother belongs to "TELAGA" (OC) and at the time of admission in Government polytechnic course in the year 1986, the Tribal Welfare Department issued a letter to the Polytechnic Institution, informing that she belongs to ST-Yanadi and the TC as well as the Certificate issued in 1990 shows that she belongs to ST-Yanadi and that the DLSC committee utterly failed to give copy of the complaint, given by third party, and she furnished her reply to the notices issued dated:31.03.2012, 13.06.2012, 20.06.2012 and 12.07.2012 by attending on 30.04.2012, 02.07.2012 and 31.07.2012 before the DLSC, and she got examined in her favor the vice president namely Sri Tiruveedula Srihari Rao, of Gopala Krishna, YANADI Colony, Sri Chevuri Chanchaiah who is a retired Govt. employee and his wife and that the District Collector without considering her case erroneously cancelled her Caste Certificate. Admittedly her father failed to obtain caste certificate as ST-Yanadi on his name and she too married a OC candidate.

- From the perusal of the remarks of the District Collector, Guntur, it is noted that the Appellant is claiming her Social Status as ST-Yanadi through her father Dammala Chandra Sekhara Rao, but she failed to furnish the particulars of the blood relatives on behalf of her father and failed to examine the neighbors if any for corroborating her claim that her father resided for decades together except the statement produced by one Chevuri Chenchaiah and she mentioned that only D. Hariveera Govind was her brother, suppressing the name of her another brother Venkateswara Rao who also secured employment in south Central Railway by *claiming his caste as YANADI - ST and the claim of the Appellant that her social* status claim was examined by the Tribal Welfare Officer, but there was no corroborative evidence to this letter and moreover the enquiry report of the RDO., Guntur, shows that the Tahsildar, Guntur issued caste certificate to the individual merely basing on school certificate without conducting any proper enquiry.

- The remarks of the District Collector show that during the personal hearings to the respondents in three files of District Level Scrutiny Committee (DLSC) Caste verification cases Viz., Rc.No.271/2007/C4, Rc.No.362/2007/C4 and Rc.No.1107/2005/C4, the respondents attended before the D.L.S.C. The three people viz., Smt. Dammala Surya Kumari, Dammala Hari Govind and Dammala Venkateswara Rao are sister and brothers and they narrated the same explanation and the extract of the explanation is that her father is Yanadi by caste and she used to reside in Guntur town and when asked about the particulars of the father's present residence and whether they can bring their father for deposing before the Committee, they were non-committal about it. The appellant and her two brothers had marital relations with upper caste persons only.

- The records also show that a notice was issued to the Appellant by furnishing the report of DLSC calling for explanation to the findings of the report. The appellant filed Written Statement also. Finally, the District Collector in exercise the power conferred under section 5 of the A.P. (SC, ST&BC) Regulation of Issue of Community Certificates Act 1993 read with Rule 9(7) of Rules 1997 cancelled the community certificate issued to the Appellant as Yanadi-ST by the MRO, Guntur Mandal in Vide No.1948/07, 1910/91 and all other certificates, if any issued.

- On verification of the records, it is noticed that the community certificates were issued by the MRO, Guntur in the year 1991 and subsequently in 2007 in favor of the Appellant as ST-Yanadi, which are subsequent to the year of entries made in the school records (1978-1989) as ST-Yanadi. This aspect is supported by the finding of the enquiry of the Revenue Divisional Officer (RDO)., Guntur, which reveals that the Tahsildar, Guntur issued caste certificate to the individual merely basing on school certificate without conducting any proper enquiry.

- Moreover, no material is forthcoming to substantiate her claim as ST on the basis of school records by proving the contents therein by examining the maker of such documents. Hence, it is unsafe to rely on such entries made in the school records as ST -Yanadi to determine the social status of the Appellant as notified ST-Yanadi.

**[Contd..on P.3]**

- The letter given by the Director of Tribal Welfare in RC.No.2696/88/TRI-VC-3, dated 22-11-1988 at the time of seeking her admission in the Govt. Polytechnic College, Kakinada, is not supported by any factual enquiry report on her claim as ST. In the absence of any corroborative material evidence in support of such letter, that letter alone cannot be the criteria to make her claim as ST- Yanadi. At any rate the said letter cannot be treated as certificate.

- The claim of the Appellant, further is that her father is a notified ST-Yanadi, and mother belongs to Telaga (OC), as such she will acquire the community status of her father who is ST.

- Now the question is whether there is any evidence to show that her father belongs to ST-Yanadi. There is no documentary evidence on this point at all. It is observed that though a plenty of opportunity provided to the Appellant in the matter, she failed to produce evidence that her father belongs to ST-Yanadi.

- As per the findings of the DLSC and the proceedings of the District Collector, show that there was no attempt on the part of the Appellant herein to bring on record any material or adduce any evidence to the effect by examining the blood relatives or neighbors of the ordinary residence of her father as claimed. No evidence is on record that she has been integrated with the ST-Yanadi community, suffering all its handicaps.

- It is relevant to cite here that, as per the impugned proceedings of the District Collector, the appellant filed her written statement, wherein it is stated that, her father belongs to Yanadi-ST caste, resident of Sarada Colony, 13$^{th}$ Lane, Ward No.17 *of Guntur, father caste only prevails for all the purposes* even though she married a person belongs to other caste. All the relatives scattered wherever there is livelihood, therefore it is not possible to adduce evidence of her community people and enclosed the statements of Tiruvidula Sriharirao, Vice president of A.P. Yanadi Hakkula Seva Sangham, Gopala Krishna Yanadi Colony, Guntur and Chevuri Chenchaiah who is a retired employee of her community". This position can be examined in the light of the decisions of the Hon'ble Supreme Court in determining the community status of an individual.

- In Ramesh bhai Dabhai Naika Vs. State of Gujarat and others, (2012) 3 Supreme Court Cases 400, wherein it was held by Hon'ble Apex Court, that "the legal position that seems to emerge is that in an inter-caste marriage or a marriage between the tribal and non-tribal the determination of the caste of the offspring is essentially a question of fact to be decided on the basis of the facts adduced in each case". The Apex Court further observed that it is wrong and incorrect to read the rule laid down earlier that in an inter-caste marriage or a marriage between a tribal and a non-tribal, the child must always be deemed to take his/her caste from the father regardless of the attending facts and circumstances of each case.

- In the instant case there is nothing on record to show that the Appellant has ever been treated to be a member of the Scheduled Tribe by the ST-Yandi community and accepted her to be part of Yanadi-ST community. Moreover, the Appellant and as well as her brothers and other members of his family, married to persons belonging to non-ST castes.

- The burden proof lies on the claimant to prove that she belongs to caste to which she claims to belong. The Appellant failed to discharge her burden in proving her community as ST-Yanadi. The Hon'ble Supreme Court, citing the broad parameters in determining the community status of an individual in Anand Vs. Committee for Scrutiny and Verification of Tribe Claims, on 8 November, 2011, observed that "Needless to add that the burden of proving the caste claim is upon the applicant. He has to produce all the requisite documents in support of his claim. The Caste Scrutiny Committee merely performs the role of verification of the claim and therefore, can only scrutinize the documents and material produced by the applicant. In case, the material produced by the applicant does not prove his claim, the Committee cannot gather evidence on its own to prove or disprove his claim".

- During the hearing in the matter before this authority, on 26-11-2022, a G.O.Ms.No.123, Social Welfare (TW.CV.2) Department, dated 02-04-2013 was brought to the notice, which was issued in favor of her brother determining his community status as ST-Yanadi.

**[Contd..on P.4]**

- The said order was passed while observing that "as regards the status of the offspring whose father is a member of Scheduled Caste or Scheduled Tribe, the prima-fade presumption is in favour of the child possessing the caste of the father". The decision made in the said GO is not based on the correct legal position and is in deviation of the ruling of the Hon'ble Supreme Court laid down in the above referred case – Ramesh bhai Dabhai Naika Vs. State of Gujarat and others, (2012). Hence the District Collector is at liberty to take appropriate legal steps against the said GO.123 also in the interest of Scheduled Tribes. In fact, each case has to be dealt as per the evidence available on the record.

- There is no valid, acceptable evidence on the record in support of the claim of the present Appellant as ST-Yanadi. There is no error in the report of DLSC and District Collector in holding that the Appellant herein is not a notified ST-Yanadi. Therefore, Appeal is hereby dismissed, upholding the impugned order passed by the District Collector in Rc.No.271/2007/C4, dated 20.04. 2013. The interim order passed in the matter is hereby vacated. Appeal is disposed of accordingly.

5. Government after careful examination of the appeal petition and the circumstances stated supra and in exercise of the powers conferred under Section 7(2) of A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), and rules made there under, decide that the appeal petition filed by Smt. Dammala Surya Kumari does not deserve any interference. Hence, the Proceedings in Rc.No.271/2007/C4, dt.20.04.2013 of the Collector & District Magistrate, Guntur is hereby upheld and the appeal petition filed by Smt. Dammala Surya Kumari, is hereby dismissed. The certificate issued by the then MRO, Guntur Mandal deemed to be cancelled.

6. The Collector & District Magistrate, Guntur is directed to take necessary consequential action in the matter, accordingly.

7. The records (Rc.No.271/2007/C4) containing pages (1 to 235) received from the Collector & District Magistrate, Guntur through in the reference 4th read above, are returned herewith in original to him with a request to acknowledge the receipt of the same, immediately.

**(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)**

**KANTILAL DANDE**
**SECRETARY TO GOVERNMENT**

To,
The Collector & District Magistrate, Guntur.(we)
(with original records) (BY RPAD)

Smt. D. Surya Kumari, W/o Sri Venkateswara Rao,
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**Copy to:**

The PS to Hon'ble Deputy CM(TW).
The PS to Secretary(TW).
Sf/Sc (E 21697)

**// FORWARDED:: BY ORDER //**

**SECTION OFFICER**